

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1/11/2024
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BDG GOTHAM RESIDENTIAL, LLC, et al.,

Plaintiffs,

-against-

WESTERN WATERPROOFING COMPANY,  
INC., et al.,

Defendants.

19-CV-6386 (CM) (BCM)

**ORDER**

**BARBARA MOSES, United States Magistrate Judge.**

1. The Court held a status conference today, during which the parties confirmed that discovery is complete (subject to ¶ 4, *infra*) and that both sides plan to move for summary judgment.

2. For the reasons discussed at the conference, the summary judgement briefing schedule is as follows:

- a. The parties shall filed a joint statement of undisputed material facts no later than **February 5, 2024**.
- b. Plaintiffs shall file their motion for summary judgment and supporting papers no later than **February 26, 2024**.
- c. Defendants shall file their opposition papers, together with any cross-motion for summary judgment, no later than **March 25, 2024**.
- d. Plaintiff's shall file their opposition papers to defendants' motion, together with any reply in support of their own motion, no later than **April 22, 2024**.
- e. Defendants shall file any reply in support of their own motion no later than **May 20, 2024**.

3. The parties are reminded that, to their extent all material undisputed facts are not stipulated to, they must file supplement statements of material undisputed facts, and responses

thereto, in accordance with Local Civil Rule 56.1 and Judge McMahon's Individual Practices and Procedures, which will also govern page limits, formatting, and any extension or oral argument requests relating to summary judgment.

4. The parties have identified three potential witnesses – Edwards, Braico, and Mo – who did not sit for deposition due to the pendency of a criminal matter against Edwards and Braico. All three potential witnesses advised plaintiffs, through counsel, that if questioned at deposition they would invoke their Fifth Amendment rights. After the close of the fact discovery period, the criminal matter concluded with acquittal of both Edwards and Braico. Defendants have advised the Court that they do not presently intend to rely on testimony from Edwards, Braico, or Mo for summary judgment purposes. *Should that change*, defendants must so advise plaintiff no later than **January 18, 2024**, so that plaintiffs can determine whether to request that discovery be reopened for the purpose of permitting them to take these individuals' depositions.

Dated: New York, New York  
January 11, 2024

**SO ORDERED.**



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**BARBARA MOSES**  
**United States Magistrate Judge**